REMARKS

This Amendment is in response to the Office Action mailed November 2, 2006.

Reconsideration is respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-4, 8-11 and 15 are pending and stand rejected.

Claims 1, 8 and 15 have been amended.

In reviewing the amendments made to the claims in applicant's response to the Office Action dated April 13, 2006 and to the RCE filed October 2006, applicant has noticed that one of the requested amendments to the claims made in the applicant's response was not reflected in the claims presented in the RCE. That is, in each of claims 1, 8 and 15, the claim element "if any extents affected by the host write request are involved <u>during the restoring step</u> in the restoration and preserving is not selected, then setting an indicator to indicate that the extents need to be re-copied," was not accurately reflected in the claims presented in the RCE filed.

Applicant, accordingly, has amended claims 1, 8, and 15 herein to reflect the desired amendments to the claims and respectfully requests that these amendments be entered.

Applicant, through his attorney, thanks the Examiner for his acknowledging and entering the Terminal Disclaimer filed with the Response to Office Action, dated August 9, 2006, to overcome the double patenting rejections of claims 1-2, 4, 8-9, 11 and 15.

Rejection under 35 USC 102

The Examiner has rejected claims 1-4, 8-11 and 15 under 35 USC 102(e) as being anticipated by Young (USP no. 6,898,681).

Applicant respectfully disagrees with the Examiner's reason for rejecting the claims. The Examiner has referred to columns 7-11 and Figures 6c and 10 of Young for teaching the elements recited in the independent claims. However, applicant believes that a reading of these sections fails to disclose the elements recited in the claims.

Figure 6c and col. 10, lines 7-44 are referred-to for teaching the claim element "restoring the source by copying data content from the clone to overwrite data content of the source," i.e., the restoring step. Figure 10 is referred to for teaching the claim element "if any extents affected

by the host write request are involved in the restoration (now, <u>during the restoring step</u>), and preserving is not selected, then setting an indicator to indicate that the extents need to be re-copied." Figure 10 further refers to Figures 3 and 6a to complete the processing described by Young.

Figure 6c refers to the operation of restoring a master (source) from a point-in-time copy (clone) (see col. 10, lines 7-10, "[r]ecovery of a master copy from a point in time copy in the independent mode will now be described with reference to Fig. 6c which shows a flow chart for illustrating recovery of a master copy from a point in time copy."). Figures 10, 3 and 6a refer to the operation of creating a point in time (POT) copy. (see col. 11, lines 4-7, "FIG. 10 shows a flow chart illustrating operations carried out by the point in time copy controller... when a subsequent point in time is to be made using the point in time copy system shown in FIG. 9."). However, the operations of Figure 6c and Figures 10, 3 and 6c are independent operations and Young fails to teach the process of "if preserving the data content is not selected, then overwriting the data contents of the clone during the restoring step" as is recited in the claims.

More specifically, a review of Figure 6c teaches the process of restoring a master from a POT copy while new data writes are being made to the master file. In this case, data from the POT copy is first included in the master and the new data overwrites the POT copy data that was included in the master. A bit is set to indicate that new data is in the master and when a new POT copy is to be made the contents of this data block are to be saved. ("[t]hen at S31b in Fig. 6c, the point in time controller ... checks to see whether the data processor ... wished to write new data to the data block in the master store ...If the answer is yes, then the point in time copy controller ... copies that data block from the shadow store ... to the master store ... at S34b and at S35b set the corresponding copy bit to zero. Then, at S36b in Fig. 6c, the point in time copy controller ... allows the new data to be written into that data block and set the corresponding bit in the shadow bitmap to 1." (see col. 10, lines 18-26). Thus, during the restoration process described by Young, there is no teaching of overwriting the data contents of the clone during the restoring step if preserving the data content <u>of the clone</u> is not selected.

With regard to the processing described by Young in Figures 10, 3 and 6a, this process is related to creating a POT copy of the master store. Figure 10 determines whether a POT copy is to be preserved or a new copy created. Figure 3 performs processing of copying data from the

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master store to the shadow store and Figure 6a similarly performs processing of copying data from the master store to the shadow store (steps S32, S34) and overwriting old data in the master store with new data (step S36).

Hence, contrary to the Examiner's reason for the rejection, Young fails to describe elements of the claim with regard to overwriting the data contents of the clone during the restoring step if preserving the data content of the clone is not selected.

It is well recognized that to constitute a rejection pursuant to 35 USC § 102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

At least for this reason, applicant submits that the rejection of claim 1 has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recited subject matter similar to that recited in claim 1 and, hence, are also not anticipated by the teachings of Young for the same remarks made with regard to claim 1.

With regard to the remaining claims, these claims depend from the independent claims, and, hence, are also not anticipated by the teachings of Young, by virtue of their dependency upon an allowable base claim.

Applicant respectfully requests reconsideration of the reasons for rejection of the claims and removal of all claim rejections for any pending claims and allowance of those same pending claims.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney.
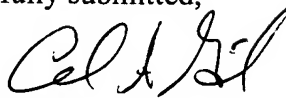
Please charge all fees occasioned by this submission to Deposit Account No. 05-0889.

Feb 2007

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Respectfully submitted,

Dated: _____ 2/23/07 _____

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